

# **Pathway to PA Licensure**

# **Evaluating Criminal History During the Application Process**

The Department of State (DOS) and the Bureau of Professional and Occupational Affairs (BPOA) are committed to ensuring that the application process for professional licensure is fair and transparent to both the public and the professional community.

When applicants with a prior criminal history apply for licensure, they should feel confident that the Board will review their application in its entirety. In the time that applicants have been required to submit criminal background information (October 2014 – present), the department has introduced a number of administrative measures, ranging from informal conferences to probationary licenses, to help eliminate unnecessary barriers to licensure.

The following overview is intended to inform and educate current and prospective licensees about the formal review process.

## Application Process

- Upon meeting the qualifications to take the licensing examination, the applicant files an application for the examination.
    - Part of the application process includes disclosing criminal history record information by submitting a criminal background check with the application.
  - Board Counsel reviews the criminal background check for offenses that may be grounds for the provisional<sup>1</sup> denial of a license.
    - If grounds for provisional denial are found one of two things may happen:
      - 1) the application may be reviewed by the Board at its next meeting to determine whether the applicant should be granted a license, granted a license on probation or provisionally denied a license and given the opportunity for a hearing;
- OR
- 2) the applicant may receive a letter from board counsel explaining the concerns of the board, detailing the grounds for a possible provisional denial and offering an opportunity to receive a license on probation.

<sup>1</sup> Defined as “existing or accepted for the present time but likely to be changed.” <https://www.merriam-webster.com/dictionary/provisional>

## What Crimes May Be Grounds for Provisional Denial?

- All licensing boards within BPOA have the authority, under the Criminal History Record Information Act (18 Pa. C.S.A. §9124), to deny a license or discipline a licensee based on a felony conviction. The board may also deny a license based on a misdemeanor conviction, if that misdemeanor *relates to the profession*.
- Just because grounds exist for provisional denial, that ***does NOT mean the applicant will be denied licensure.***
- When reviewing all the application materials that have been submitted, among the things the board takes into consideration are:
  - The seriousness of the crime(s);
  - The date of the crime(s);
  - The age of the person at the time of commission of the crime(s);
  - The age(s) of the victim(s) of the crime (if applicable);
  - The circumstances, if known, surrounding the commission of the crime(s);
  - The relationship between the criminal conduct and the applicant's prospective duties as a licensee;
  - The prison, jail, probation, parole, rehabilitation and employment records of the applicant since the commission of the crime(s); and
  - Any affidavits or other written documents, including *character references provided on the applicant's behalf.*

## **Provisional Denial Process**

- If the board provisionally denies an application, the applicant will receive a letter in the mail that provides the legal grounds for the provisional denial and details the appeal procedure.
- Once an appeal is received, the matter will be scheduled for a hearing before a hearing examiner, who will prepare a report after the hearing.
- At the hearing, the applicant can provide evidence of rehabilitation, mitigation, character references, etc.
- Any testimony and/or documents provided at the hearing become part of the record, which is reviewed by the board along with the hearing examiner's report, before the board makes a final determination.
- A provisional denial ultimately may result in the board granting the license, granting the license on probation or denying the license.

## Probationary License

- A probationary license is identical in appearance to an unrestricted license;  
***the probationary notation, however, will be retained as a public record by BPOA and DOS.***
- A probationary license does not restrict where or how the licensee can practice.
- The general terms of probation include some of the following:
  - Licensee must obey all laws of the United States, the Commonwealth of Pennsylvania and its political subdivisions and all rules and regulations pertaining to the practice of the profession.
- Licensee must notify the BPOA, in writing, within five days of the filing of any criminal charges against licensee.
- The same requirement as above applies for disposition of any criminal charges (e.g., conviction, found guilty, guilty plea, nolo contendere plea, received probation without a verdict or accelerated rehabilitative disposition).
- Licensee must notify the BPOA by telephone within 48 hours, and in writing within five days, of any change in home address, phone number, employment status, employer and/or practice.
- A license can be placed on probation for any period of time, but generally the boards issue the probationary license for a period of 1-2 years or to run concurrent with any criminal probation or parole.

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